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Simple RTO, LLC, d/b/a

Simple Finance

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

**SIMPLE FINANCE TECHNOLOGY
CORP.**, a Delaware corporation,

Plaintiff,

v.

**SIMPLE RTO, LLC, d/b/a SIMPLE
FINANCE**, a Utah limited liability
corporation,

Defendant.

CV No. 3:16-cv-00801-BR

**DEFENDANT’S UNOPPOSED MOTION
FOR EXTENSION OF TIME TO
ANSWER OR OTHERWISE RESPOND
TO PLAINTIFF’S COMPLAINT AND
MEMORANDUM IN SUPPORT**

**Fed R. Civ. P. 6(b)(1)(A)
Expedited Consideration Requested**

LOCAL RULE 7-1 CERTIFICATION

Pursuant to L.R. 7-1(a), counsel for defendant Simple RTO, LLC d/b/a Simple Finance (“Simple RTO” or “defendant”) conferred with counsel for plaintiff on this motion, and plaintiff does not oppose the motion.

MOTION

Pursuant to Fed. R. Civ. P. 6(b)(1)(A), defendant moves to extend the time to respond to plaintiff's Complaint because defendant retained the undersigned counsel the week before the deadline to respond. Defendant requests a 21-day extension of the time to respond to plaintiff's Complaint, which would extend the deadline to June 22, 2016.

BACKGROUND

Plaintiff filed its complaint on May 9, 2016. (Compl., Dkt. # 1.) Defendant was served on May 11, 2016. (Aff. Service, Dkt. # 9.) Plaintiff's complaint asserts four claims: (1) federal trademark infringement of mark; (2) federal unfair competition; (3) common law trademark infringement and unfair competition; and (4) dilution under ORS 647.107. On May 23, 2016 defendant retained Markowitz Herbold P.C. to represent it in this matter. (Armstrong Decl. ¶ 2.) To adequately prepare a response to plaintiff's Complaint, defendant's counsel does not anticipate being able to file a response to the complaint until June 22, 2016. (*Id.* ¶¶ 3, 6.) Defendant has not sought any prior extensions of deadlines in this case.

ARGUMENT

I. Good cause exists for the extension.

Defendant has demonstrated good cause to extend its time to respond to the Complaint to June 22, 2016 because counsel was retained only four days ago and needs time to adequately investigate and respond to plaintiff's claims. A party must file a response within 21 days after service of the summons and complaint. Fed. R. Civ. P. 12(a)(1)(A)(i). A court may extend the time for a party to act for good cause. Fed. R. Civ. P. 6(b)(1). Under the Local Rules, a motion to extend deadlines must:

1. Show good cause why the deadline should be modified.
2. Show effective prior use of time.
3. Recommend a new date for the deadline in question.
4. Show the impact of the proposed extension on other existing deadlines, settings, or schedules.

Local Rule 16-3(a).

There is good cause to extend the deadline to respond by 21 days. Defendant's counsel needs additional time to investigate and analyze plaintiff's claims to provide an adequate response. Specifically, defendant's counsel needs a 21-day extension to research the trademark history of the disputed marks, research and analyze the sufficiency of plaintiff's multiple legal claims, research and analyze potential affirmative defenses, and further investigate plaintiff's factual allegations. (Armstrong Decl. ¶ 6.)

Defendant has effectively used its prior time. Defendant was served on May 11, 2016, and retained the undersigned counsel less than two weeks later. (Armstrong Decl. ¶ 2.) Defendant's counsel has begun investigating plaintiff's claims and has requested the file from defendant's prior out-of-state counsel, but has not yet received it. (Armstrong Decl. ¶ 5.) An additional 21 days will ensure defendant can thoroughly and accurately respond to plaintiff's allegations.

Defendant requests a 21-day extension, until June 22, 2016, to respond to plaintiff's Complaint. The additional time should have no material impact on any deadlines because the Court has not yet set a Rule 16 conference to address the schedule for discovery and pre-trial matters.

This motion is filed in good faith and not for any improper purpose or undue delay. Defendant merely requests sufficient time to adequately respond to the allegations made against it.

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CONCLUSION

Defendant respectfully requests that the Court extend its time to respond to plaintiff's Complaint to June 22, 2016.

DATED this 27th day of May, 2016.

MARKOWITZ HERBOLD PC

By: /s/ Shannon Armstrong

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